

**DEPARTMENT OF STATE REVENUE
LETTER OF FINDINGS NUMBER: 03-0152P
Gross Income Tax
For Calendar Years 1998, 1999, and 2000**

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ISSUE(S)

I. Tax Administration – Penalty

Authority: IC 6-8.1-10-2.1(d); 45 IAC 15-11-2

Taxpayer protests the penalties assessed.

STATEMENT OF FACTS

Taxpayer was assessed a penalty at audit for failing to report gross income to the state of Indiana and a penalty for the underpayment of estimated income taxes. Taxpayer protests the proposed penalty assessments for the underpayment of estimated tax and the audit penalty. Taxpayer, in letters dated March 14, 2003 and March 21, 2003, states that it relied on its Certified Accountants to properly prepare its returns.

I. Tax Administration – Penalty

DISCUSSION

Taxpayer protests the penalties assessed. Taxpayer states that it relied upon its Certified Accountants to properly prepare its returns, therefore, it has reasonable cause to allow the Department to waive the penalties assessed. The Certified Public Accountant provided a letter dated April 14, 2003 that indicates there was either a program error or an oversight for the failure to subject receipts to the gross income tax.

Taxpayer failed to report gross income subject to the gross income tax. Receipts, which are derived from providing services of any character within Indiana, are subject to the Gross Income Tax at the high rate. The taxpayer provides engineering consultant services that are performed within Indiana.

Neither taxpayer nor its CPA has provided reasonable cause to allow a penalty waiver for the

untaxed gross receipts.

Taxpayer also failed to file and remit quarterly estimated income taxes for almost all of its quarterly returns.

To avoid the penalty, the quarterly estimate must equal at least twenty percent (20%) of the total income tax liability for the current taxable year or twenty-five percent (25%) of the final income tax liability for the prior taxable year. Taxpayer failed to make the quarterly estimated payments and has not provided reasonable cause to allow a penalty waiver. Procedures should have been in effect to assure that taxes were timely paid. Taxpayer had Certified Public Accountants that should have been aware of Indiana Tax Law and its consequences.

FINDING

Taxpayer's protest is denied.